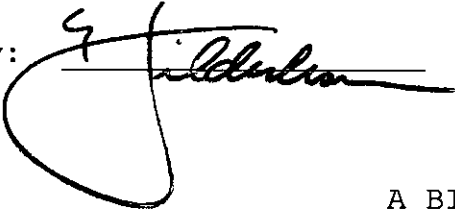


FILED MAR 09 2007

H.B. No. 3508

By:



A BILL TO BE ENTITLED

AN ACT

relating to the immunity from individual liability of directors
of soil and water conservation districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 201, Subchapter C, Agriculture Code, is
amended to add Section 201.0751 as follows:

Sec. 201.0751. INDIVIDUAL LIABILITY OF DIRECTORS. (a) A
director is not individually liable for any act that is incident
to or within the scope of duties of the director's position and
that involves the exercise of judgment or discretion on the part
of the director.

(b) If a suit is filed against a director in their
individual capacity based on conduct within the scope of that
director's position, the suit is considered to be against the
director in the director's official capacity only. On the
director's motion, the suit against the director shall be
dismissed unless the plaintiff files amended pleadings
dismissing the director and naming the district as defendant on
or before the 30th day after the date the motion is filed.

SECTION 2. IMMEDIATE EFFECTIVE DATE. This Act takes
effect immediately if it receives a vote of two-thirds of all
the members elected to each house, as provided by Section 39,
Article III, Texas Constitution. If this Act does not receive
the vote necessary for immediate effect, this Act takes effect
September 1, 2007.

HOUSE COMMITTEE REPORT

1st Printing

07MAY-3 AM12:09

HOUSE OF REPRESENTATIVES

By: Hilderbran, Hardcastle, Heflin, et al.

H.B. No. 3508

Substitute the following for H.B. No. 3508:

By: Puente

C.S.H.B. No. 3508

A BILL TO BE ENTITLED

AN ACT

relating to the liability and indemnification of directors of soil and water conservation districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 104, Civil Practice and Remedies Code, is amended by adding Section 104.0021 to read as follows:

Sec. 104.0021. STATE LIABILITY: SOIL AND WATER CONSERVATION DISTRICTS. (a) In a cause of action based on conduct described by Section 104.002(a), the State Soil and Water Conservation Board shall indemnify a director of a soil and water conservation district for actual damages, court costs, and attorney's fees adjudged against the director without regard to whether the director performed the director's services for compensation.

(b) For the purposes of Section 104.002(a), an act or omission by a director of a soil and water conservation district in the course and scope of the person's position as a director of the district is considered an act or omission by the director in the course and scope of the person's office, employment, or contractual performance for or service on behalf of the State Soil and Water Conservation Board.

(c) In addition to liability for indemnification under Subsection (a), the State Soil and Water Conservation Board shall indemnify a director of a soil and water conservation district as provided by Section 104.0035. For the purposes of that section, the

1 director of the district is considered a person covered by Section
2 104.001.

3 (d) The attorney general shall defend a director of a soil
4 and water conservation district in a cause of action covered by this
5 section., Sections 104.004(b) and (c) apply to representation by
6 the attorney general under this subsection.

7 SECTION 2. Section 108.001(1), Civil Practice and Remedies
8 Code, is amended to read as follows:

9 (1) "Public servant" means a person who is:

10 (A) a public official elected or appointed to
11 serve a governmental unit and acting in that capacity when the act
12 or omission on which the damages were based occurred; or

13 (B) covered by Section 104.001, 104.0021, or
14 [~~Section~~] 102.001.

15 SECTION 3. The change in law made by this Act applies only
16 to a cause of action that accrues on or after the effective date of
17 this Act. A cause of action that accrues before the effective date
18 of this Act is governed by the law in effect immediately before the
19 effective date of this Act, and that law is continued in effect for
20 that purpose.

21 SECTION 4. This Act takes effect September 1, 2007.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

4/18/07
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES

to whom was referred KB 3508 have had the same under consideration and beg to report back with the recommendation that it

- () do pass, without amendment.
- () do pass, with amendment(s).
- (X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- (X) yes () no A fiscal note was requested.
- () yes (X) no A criminal justice policy impact statement was requested.
- () yes (X) no An equalized educational funding impact statement was requested.
- () yes (X) no An actuarial analysis was requested.
- () yes (X) no A water development policy impact statement was requested.
- () yes (X) no A tax equity note was requested.
- () The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors: _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

| | AYE | NAY | PNV | ABSENT |
|----------------------|-----|-----|-----|--------|
| Puente, Chair | X | | | |
| Hamilton, Vice-chair | X | | | |
| Gattis, CBO | X | | | |
| Creighton | X | | | |
| Gallego | X | | | |
| Guillen | X | | | |
| Hilderbran | X | | | |
| Laubenberg | X | | | |
| O'Day | X | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Total 9 aye
0 nay
0 present, not voting
0 absent

Altman
CHAIR

BILL ANALYSIS

C.S.H.B. 3508
By: Hilderbran
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Soil and Water Conservation District directors serve as volunteer members of their local boards. The 217 individual local soil and water conservation districts in Texas are political subdivisions of state government that are responsible for comprehensive natural resource conservation and protection. Each local district has five board members (directors) who are elected by agricultural producers and property owners. Each district serves as the local governmental entity that (1) establishes the priorities for voluntary state and federal financial assistance conservation programs, (2) employs individuals who provide technical conservation advice and assistance, (3) serves as the entity through which program dollars are passed on to participants, and (4) provides verification that program dollars are properly utilized. The state has prohibited these local districts from levying a tax and provides limited amounts of funds to these districts to carry out their duties and/or hire an attorney in the event a board member, or the district is sued. The prospect of being sued and possibly losing their farms and ranches by serving in their official capacity has caused many district directors to consider resigning their positions.

C.S.H.B. 3508 is intended to protect the volunteers who serve on the local soil and water conservation district boards from liability with respect to their official capacity.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Chapter 104, Civil Practice and Remedies Code by adding Section 104.0021 as follows:

Sec. 104.0021. STATE LIABILITY: SOIL AND WATER CONSERVATION DISTRICTS.

- (a) In a cause of action based on conduct described by Sec. 104.002(a), the State Soil and Water Conservation Board is required to indemnify a director of a soil and water conservation district for actual damages, court costs and attorney's fees adjudged against the director without regard to whether the director performed the director's services for compensation.
- (b) Provides that for the purposes of Section 104.002(a), an act or omission by a director of a soil and water conservation district in the course and scope of the person's position as a director of the district is considered an act or omission by the director in the course and scope of the person's office, employment, or contractual performance for or service on behalf of the State Soil and Water Conservation Board.
- (c) In addition to liability for indemnification under Subsection (a), the State Soil and Water Conservation Board is required to indemnify a director of a soil and water conservation district as provided by Section 104.0035. For the purposes of that section, the director of the district is considered a person covered by Section 104.001.
- (d) Requires that the attorney general defend a director of a soil and water conservation district in a cause of action covered by this section. Sections 104.004 (b) and (c) apply to representation by the attorney general under this subsection.

SECTION 2. Amends Section 108.001(1)(B), Civil Practice and Remedies Code, by adding Section 104.0021.

SECTION 3. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act.

SECTION 4: Effective Date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The introduced version does not contain Section 104.0021, Civil Practice and Remedies Code, as provided in C.S.H.B. 3508, rather the introduced version amends Chapter 201, Subchapter C, Agriculture Code to provide that a director is not individually liable for any act that is incident to or within the scope of duties of the director's position and that involves the exercise of judgment or discretion on the part of the director. The introduced version also provided that if a suit is filed against a director in their individual capacity based on conduct within the scope of that director's position, the suit is considered to be against the director in the director's official capacity only. On the director's motion, the suit against the director is required to be dismissed unless the plaintiff files amended pleadings dismissing the director and naming the district as defendant on or before the 30th day after the date the motion is filed.

C.S.H.B. 3508 amends Section 108.001(1)(B), Civil Practice and Remedies Code, by adding Section 104.0021.

The introduced version does not contain the addition to Section 108.001(1)(B).

SECTION 3 of C.S.H.B. 3508 provides that the change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act.

The introduced version does not contain a similar provision.

C.S.H.B. 3508 provides for an effective date of September 1, 2007.

The introduced version provides for immediate effect upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

SUMMARY OF COMMITTEE ACTION

HB 3508

April 04, 2007 2:00 PM or upon final adjourn./recess

Considered in public hearing

Committee substitute considered in committee

Testimony taken in committee (See attached witness list.)

Left pending in committee

April 18, 2007 2:00 PM or upon final adjourn./recess

Considered in public hearing

Committee substitute considered in committee

Reported favorably as substituted

3
1

WITNESS LIST

HB 3508

HOUSE COMMITTEE REPORT

Natural Resources Committee

April 4, 2007 - 2:00 PM or upon final adjourn./recess

Against: Doyle, Mike (Self and Texas Trial Lawyers Association)

Registering, but not testifying:

For: Conkwright, Jim (High Plains Underground Water Conservation District No. 1)

Hodge, Richard J. (Self and Matagorda Co. SWCD District 316 Board)

Howe, Billy (Texas Farm Bureau)

Johnson, Joe (McCulloch Co. SWCD)

Langford, David K. (Self and Texas Wildlife Association)

Runge, Caroline (Menard County Underground Water District)

Tate, Jesse (McCulloch Soil & Water Cons. District)

Zetka, Norman (Self and Bastrop County Soil and Water Conservation District)

- Committee Substitute (Puente)

For: Edmiston, Gene (Self and McCulloch Soil & Water Conservation District)

Hurta, Les (Self and Bastrop County Soil and Water Conservation District)

Mann, Billy (Matagorda Co. SWCD Matagorda County)

Ottmers, Guenther G. (Gillespie Soil & Water Conservation District)

Richmond, Jule (Self and Association of Texas State Soil & Water Cons. Dist.)

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 2, 2007

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3508 by Hilderbran (Relating to the liability and indemnification of directors of soil and water conservation districts.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill amends the Agriculture Code to add language relating to the liability and indemnification of soil and water conservation district directors.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 592 Soil and Water Conservation Board

LBB Staff: JOB, WK, ZS, JF

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 3, 2007

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3508 by Hilderbran (Relating to the immunity from individual liability of directors of soil and water conservation districts.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill amends the Agriculture Code to add language relating to the immunity from individual liability of soil and water conservation district directors.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 592 Soil and Water Conservation Board

LBB Staff: JOB, WK, ZS, JF

for chief clerk use only

Bill or Resolution Number:

HB 3508

JOINT AUTHOR AUTHORIZATION

As primary author of HB 3508 I hereby authorize the following joint author(s):
(bill or resolution #)

Rick Handcastle

printed name of joint author #1

[Signature]

signature of joint author #1

APR 03 2007

Joe Heflin

printed name of joint author #2

[Signature]

signature of joint author #2

APR 24 2007

Dan Gattis

printed name of joint author #3

signature of joint author #3

John DAVIS

printed name of joint author #4

[Signature]

signature of joint author #4

5/8/07

[Signature]

signature of primary author

4/3/07

date

80TH LEGISLATURE

COAUTHOR AUTHORIZATION

(please request your coauthors to sign this form in lieu of the front or the back of the original bill)

HB 3508
Bill or Resolution Number: 3508


signature of primary author

Hilderbrum
printed name of primary author

APR 03 2007
Date

PERMISSION TO SIGN HB 3508 HAS BEEN GIVEN TO (check only one of the following):
(bill or resolution #)

☒ ALL REPRESENTATIVES
☐ THE FOLLOWING REPRESENTATIVE(S):

I authorize the Chief Clerk to include my name as a coauthor of the legislation indicated above:

| | | | | | |
|--------------------|------|---------------------|---------|---------------------------|--------|
| A2100 Allen | Date | A2450 Cook, Byron | Date | A2795 Farabee | Date |
| A2125 Alonzo | Date | A2565 Cook, Robby | Date | A2820 Farias | Date |
| A2150 Anchia | Date | A2595 Corte | Date | A2810 Farrar | Date |
| A2155 Anderson | Date | A2605 Crabb | Date | A2840 Flores | Date |
| A2145 Aycock | Date | A2610 Craddick | Date | A2850 Flynn | Date |
| A2160 Bailey | Date | A2615 Creighton | Date | A2860 Frost | 5/8/07 |
| A2205 Berman | Date | A2640 Crownover | Date | A2920 Gallego | Date |
| A2230 Bohac | Date | A2645 Darby | 4/26/07 | A2915 Garcia | Date |
| A2240 Bolton | Date | A2620 Davis, John | Date | A2960 Gattis | Date |
| A2250 Bonnen | Date | A2625 Davis, Yvonne | Date | A2945 Geren | Date |
| A2280 Branch | Date | A2680 Delisi | 7/1/07 | A2935 Giddings | Date |
| A2265 Brown, Betty | Date | A2690 Deshotel | Date | A2910 Gonzales | Date |
| A2270 Brown, Fred | Date | A2705 Driver | Date | A4660 Gonzalez Toureilles | Date |
| A2255 Burnam | Date | A2665 Dukes | Date | A2990 Goolsby | Date |
| A2295 Callegari | Date | A2660 Dunnam | Date | A3045 Guillen | Date |
| A2495 Castro | Date | A2650 Dutton | Date | A3035 Haggerty | Date |
| A2585 Chavez | Date | A2775 Eiland | 4/26/07 | A3050 Hamilton | Date |
| A2480 Chisum | Date | A2780 Eissler | Date | A3100 Hancock | Date |
| A2525 Christian | Date | A2785 Elkins | Date | A3160 Hardcastle | Date |
| A2425 Cohen | Date | A2805 England | Date | A3150 Harless | Date |
| A2435 Coleman | Date | A2800 Escobar | Date | A3165 Harper-Brown | Date |

| | | | | | |
|-----------------------|------|------------------------|------|--------------------|------|
| A3170 Hartnett | Date | A3730 Mallory Caraway | Date | A4185 Pitts | Date |
| A3175 Heflin | Date | A3780 Martinez | Date | A4200 Puente | Date |
| A3155 Hernandez | Date | A2835 Martinez Fischer | Date | A4230 Quintanilla | Date |
| A3140 Herrero | Date | A3665 McCall | Date | A4215 Raymond | Date |
| A3250 Hilderbran | Date | A3650 McClendon | Date | A4220 Riddle | Date |
| A3275 Hill | Date | A3845 McReynolds | Date | A4250 Ritter | Date |
| A3305 Hochberg | Date | A3830 Menendez | Date | A4270 Rodriguez | Date |
| A3290 Hodge | Date | A3840 Merritt | Date | A4350 Rose | Date |
| A3325 Homer | Date | A3825 Miles | Date | A4525 Smith, Todd | Date |
| A3330 Hopson | Date | A3835 Miller | Date | A4540 Smith, Wayne | Date |
| A3315 Howard, Charlie | Date | A3860 Moreno | Date | A4530 Smithee | Date |
| A3310 Howard, Donna | Date | A3870 Morrison | Date | A4505 Solomons | Date |
| A3340 Hughes | Date | A3865 Mowery | Date | A4545 Strama | Date |
| A3375 Isett | Date | A3875 Murphy | Date | A4565 Straus | Date |
| A3350 Jackson | Date | A3885 Naishtat | Date | A4570 Swinford | Date |
| A3405 Jones | Date | A3900 Noriega | Date | A4585 Talton | Date |
| A3480 Keener | Date | A3890 O'Day | Date | A4600 Taylor | Date |
| A3470 King, Phil | Date | A3880 Oliveira | Date | A4630 Thompson | Date |
| A3460 King, Susan | Date | A3886 Olivo | Date | A4650 Truitt | Date |
| A3465 King, Tracy | Date | A3930 Orr | Date | A4685 Turner | Date |
| A3495 Kolkhorst | Date | A3940 Ortiz, Jr. | Date | A4700 Van Arsdale | Date |
| A3485 Krusee | Date | A3945 Otto | Date | A4780 Vaught | Date |
| A3450 Kuempel | Date | A4090 Parker | Date | A4725 Veasey | Date |
| A3520 Latham | Date | A4050 Patrick | Date | A4800 Villarreal | Date |
| A3540 Laubenberg | Date | A4100 Paxton | Date | A4900 Vo | Date |
| A3560 Leibowitz | Date | A4140 Pena | Date | A4995 West | Date |
| A3610 Lucio, III | Date | A4160 Phillips | Date | A5005 Woolley | Date |
| A3705 Macias | Date | A4180 Pickett | Date | A5150 Zedler | Date |
| A3715 Madden | Date | A3240 Pierson | Date | A5170 Zerwas | Date |

H.B. No. 3508

A BILL TO BE ENTITLED
AN ACT

By 

Relating to the immunity from individual liability of directors of soil and water conservation districts.

MAR 09 2007

Filed with the Chief Clerk

MAR 21 2007

Read first time and referred to Committee on Natural Resources

APR 18 2007

Reported favorably ~~(unanimous)~~
(as substituted)

MAY 03 2007

Sent to Committee on (Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of yeas, nays, present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of yeas, nays, present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of yeas, nays, present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(yeas, nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(yeas, nays)

Senate and Constitutional 3 Day Rules suspended by a vote of yeas, nays

Read third time, _____, and passed by (a viva voce vote)
(yeas, nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

07 MAY -3 AM 12:09

HOUSE OF REPRESENTATIVES

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)